

## **Abstract – The issue of the concept of criminal custody**

Man's personal freedom is the basic human right, however at the same time it is possible to restrict it in a democratic society under certain conditions defined beforehand. This thesis deals with the most serious personal freedom restriction – the institute of custody.

Custody consists in a temporary personal freedom restriction of the defendant in a closed facility based upon a court decision. Custody is an utmost means and it shall be used only if its purpose cannot be reached by other measures. Custody is not a means of pressure on the defendant and it is unacceptable to misuse it; it is not a sanction measure either.

Custody law is arranged particularly in the Penal Procedure Code, which sets the basic principles and conditions under which the defendant can be limited on their personal freedom with this procedure means. The basic suppositions for taking the defendant into custody are a reasonable concern that they will escape or hide, further that they will thwart clarifying facts crucial for the criminal prosecution, and finally that they will repeat their criminal activity. These three reasons for custody are also indicated as getaway, collusion and surpass custodies.

This personal freedom restriction may last only for a certain time, graded according to the seriousness of the crime which the defendant was to commit. The law sets exact conditions and details as well as the procedure concerning the custody reasons review. Defendant's custody is decided about by court or by the judge after a prosecutor's proposal during a preparatory proceeding. Custody can be decided upon in a custodial meeting, which is one of court session forms.

The custody institute is applicable even in people under the age of 15, but only as an exceptional measure; this issue is arranged in a special law concerning legislation in youth matters.

In some cases, when the person was harmed by an illegally imposed custody, our legal code accepts the possibility of damage compensation.